

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

AUTHORIZING THE CITY OF PROVIDENCE TO FINANCE A CONTRIBUTION
TOWARDS THE UNFUNDED PENSION LIABILITY OF THE EMPLOYEE RETIREMENT
SYSTEM OF THE CITY OF PROVIDENCE BY THE ISSUANCE OF BONDS

Introduced By: Senator Maryellen Goodwin

Date Introduced: May 21, 2021

Referred To: Senate Finance

(City of Providence)

It is enacted by the General Assembly as follows:

1 SECTION 1. The city of Providence (the “city”) is hereby empowered to issue at one time
2 or from time to time, bonds up to an amount not exceeding seven hundred fifty million dollars
3 (\$750,000,000) or such amount provided for in section 2 hereof, in in order to finance a contribution
4 towards the unfunded pension liability of the Employee Retirement System of the city of
5 Providence (the “retirement system”) and the costs of issuing the bonds. Bond proceeds may also
6 be deposited to a reserve fund, if any, established pursuant to section 4 of this act. The bonds of
7 each issue may be issued in the form of serial bonds or term bonds or a combination thereof and
8 shall be payable either by maturity of principal in the case of serial bonds or by mandatory serial
9 redemption in the case of term bonds, in annual installments of principal, the first installment to be
10 not later than twelve (12) months and the last installment not later than thirty (30) years after the
11 date of their issuance. Annual installments of principal may be provided for by maturity of principal
12 in the case of serial bonds or by mandatory serial redemption in the case of term bonds.

13 SECTION 2. In the event that market conditions at the date or dates the bonds are sold are
14 such that bonds can be sold at a “true interest cost” not in excess of three and one-half percent
15 (3.5%) per annum, then such authorization to issue bonds shall be increased, without further action
16 of the general assembly or city council, to an amount not to exceed eight hundred fifty million
17 dollars (\$850,000,000). The true interest cost shall be calculated as that rate which, as of the date
18 of delivery of the bonds, discounts semiannually all future payments of principal and interest

1 payments with respect to the bonds to the aggregate amount of bond proceeds. For purposes of this
2 calculation, the amount of bond proceeds is adjusted by any accrued interest, original issue discount
3 or original issue premium.

4 SECTION 3. The bonds shall be signed by the manual or facsimile signatures of the city
5 treasurer and mayor and shall be issued and sold in such amounts as the city council may authorize
6 by resolution. The manner of sale, denominations, maturities, interest rates and other terms,
7 conditions and details of any bonds issued under this act may be fixed by proceedings of the city
8 council authorizing the issue or by separate resolution of the city council or, to the extent provisions
9 for these matters are not so made, they may be fixed by the officers authorized to sign the bonds.

10 In addition to any other security provided by law, bonds issued hereunder may, in the discretion of
11 the city treasurer and mayor, be secured or supported, in whole or in part, by insurance or by lines
12 or letters of credit or other credit or liquidity facilities provided by any bank, trust company,
13 insurance company or other financial institution. The proceeds derived from the sale of the bonds
14 shall be delivered to the city treasurer, and such proceeds, exclusive of premiums and accrued
15 interest, shall be (1) Deposited in the retirement system pension trust fund; (2) Deposited to the
16 reserve fund, if any, established pursuant to section 4 of this act; and (3) Expended for payment of
17 costs in connection with the issuance of the bonds. No purchaser of any bonds under this act shall
18 be in any way responsible for the proper application of the proceeds derived from the sale thereof.
19 The proceeds of bonds issued under this act shall be deemed appropriated for the purposes of this
20 act without further action than that required by this act. The bonds authorized by this act may be
21 consolidated for the purposes of issuance and sale with any other bond issue of the city heretofore
22 or hereafter authorized; provided, that notwithstanding any such consolidation, the proceeds from
23 the sale of the bonds authorized by this act shall be expended for the purposes set forth above.

24 SECTION 4. The city council, by resolution, is authorized to establish a reserve fund, from
25 monies other than bond proceeds, for the purposes of this act upon such terms and conditions as
26 the city council shall determine. Any such reserve shall be held and controlled by the city and shall
27 be separate from any other reserve or fund of the city allowed or required by statute. The city
28 council shall establish a method to calculate any minimum value to be maintained in the reserve,
29 the required amount of any periodic contribution to the reserve and shall prescribe conditions for
30 expenditures from the reserve, including its use to make contributions to the retirement system and
31 for principal and interest on the bonds, and the conditions under which all or a portion of the funds
32 in the reserve may be available for unrestricted purposes, in which case such funds or portions
33 thereof shall be transferred to the city treasury.

34 SECTION 5. The city council may, by resolution, authorize that a portion of its real

1 property taxes, tangible property taxes and motor vehicle excise taxes be escrowed, segregated or
2 separately deposited for the payment of principal and interest on the bonds, making contributions
3 to the retirement system and making deposits to the reserve fund described in section 4 of this act.
4 The city is authorized to enter into escrow agreements, intercept arrangements, and other banking
5 arrangements to effectuate the intent of this section. If authorized by the city council, the tax
6 assessor may include provisions for allocation of such taxes in tax bills.

7 SECTION 6. Any proceeds of bonds issued hereunder shall be invested by the city board
8 of investment commissioners established by the city pursuant to the city charter and code of
9 ordinances. The board of investment commissioners shall develop an investment policy for
10 investments in the retirement system pension trust fund with the assistance of a nationally
11 recognized pension investment advisor. So long as any bonds issued pursuant to this act are
12 outstanding, the city shall continue to retain a nationally recognized pension investment advisor to
13 advise the board regarding investment of the bond proceeds. Funds may also be invested in
14 investments which are legal for investment by the state investment commission pursuant to chapter
15 10 of title 35 (the "state investment commission") or in one or more investment pools established
16 pursuant to chapter 10.2 of title 35. The city and the state investment commission are each hereby
17 authorized to enter into agreements with each other with respect to the investment of any proceeds
18 of bonds issued hereunder, with the resulting transactional cost savings passed on to the city;
19 provided, however that if any bond proceeds are commingled with other funds for purposes of
20 investment, that appropriate records shall be maintained of the investments or portions thereof held
21 for the account of the city's retirement system.

22 SECTION 7. Any accrued interest received upon the sale of bonds hereunder shall be
23 applied to the payment of the first interest due thereon. Any premium arising from the sale of bonds
24 hereunder shall, in the discretion of the city treasurer, be applied to the cost of preparing, issuing
25 and marketing bonds hereunder to the extent not otherwise provided, to the retirement system
26 pension trust fund to finance unfunded pension liability costs, to the payment of the principal of or
27 interest on bonds issued hereunder or to any one or more of the foregoing. The cost of preparing,
28 issuing and marketing bonds hereunder may also, in the discretion of the city treasurer, be met from
29 bond proceeds exclusive of premium and accrued interest or from other monies available therefor.
30 In exercising any discretion under this section, the city treasurer shall be governed by any
31 instructions adopted by resolution of the city council. Except as provided in section 10 hereof, bond
32 proceeds shall not be used to reimburse the city for previous contributions to the retirement system
33 pension trust fund or any prior costs associated with the retirement system.

34 So long as any bonds issued by the city under this act are outstanding, the city shall not

1 withdraw funds from the retirement system pension trust fund for any purpose other than providing
2 benefits to members and their beneficiaries, defraying reasonable expenses of administering the
3 funds of the retirement system, conforming with accounting adjustments and return of employee
4 contributions in appropriate cases.

5 SECTION 8. All bonds issued under this act and the debts evidenced thereby shall be
6 obligatory on the city in the same manner and to the same extent as other debts lawfully contracted
7 it shall be excepted from the operation of § 45-12-2 and the provisions of the city charter. No such
8 obligation shall at any time be included in the debt of the city for the purpose of ascertaining its
9 borrowing capacity. The city shall annually appropriate a sum sufficient to pay the principal and
10 interest coming due within the year on bonds issued hereunder to the extent that monies therefor
11 are not otherwise provided. If such sum is not appropriated, it shall nevertheless be added to the
12 annual tax levy. In order to provide such sum in each year and notwithstanding any provision of
13 law to the contrary, all taxable property in the city shall be subject to ad valorem taxation by the
14 city without limitation as to rate or amount.

15 SECTION 9. Any bonds issued under the provisions of this act, and coupons, if any, if
16 properly executed by officers of the city in office on the date of execution, shall be valid and binding
17 according to their terms notwithstanding that before the delivery thereof and payment therefor any
18 or all of such officers shall for any reason have ceased to hold office.

19 SECTION 10. Pending any authorization or issue of bonds hereunder, the city treasurer,
20 with the approval of the city council given by a resolution passed and approved in the manner
21 provided in the city charter, may, to the extent that bonds may be issued hereunder, apply funds in
22 the treasury of the city to the purposes specified in section 2, such advances to be repaid without
23 interest from the proceeds of bonds subsequently issued or from the proceeds of applicable federal
24 or state assistance or from other available funds.

25 SECTION 11. If the unfunded pension liability to be funded with the proceeds of an issue
26 of bonds issued under this act relates in part to employees of a component unit, department or board
27 of the city, each such component unit, department or board shall be responsible for reimbursing the
28 city for such proportion of the annual debt service expense paid by the city for bonds issued
29 hereunder as is equal to the proportion of the total unfunded pension liability to be funded with the
30 proceeds of the bonds as relates to that component unit, department or board. Notwithstanding any
31 general or special law to the contrary, the portion of the annual debt service paid by the city for
32 bonds issued under this act applicable to school department personnel who are members of the
33 retirement system shall be included in the computation of school spending for the purposes of
34 maintenance of effort requirements established by § 16-7-23 or any other law.

1 SECTION 12. Bonds may be issued under this act without obtaining approval of any
2 governmental agency of the taking of any proceedings or the happening of any conditions except
3 as specifically required by this act for such issue. In carrying out the financing under this act, all
4 action shall be taken which is necessary to meet constitutional requirements whether or not such
5 action is otherwise required by statute, but the validity of bonds issued hereunder shall in no way
6 depend upon the validity or occurrence of such action.

7 SECTION 13. Any unissued authority to issue bonds under this act shall be extinguished
8 without further action of the general assembly or the city council on the date which is five (5) years
9 after the effective date of this act.

10 SECTION 14. The city treasurer and mayor, on behalf of the city, are hereby authorized to
11 execute such instruments, documents or other papers as they deem necessary or desirable to carry
12 out the intent of this act and are also authorized to take all actions and execute all documents or
13 agreements necessary to comply with federal tax and securities laws, which documents or
14 agreements may have term coextensive with the maturity of the bonds authorized hereby, including
15 Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") and to execute and deliver
16 a continuing disclosure agreement or certificate in connection with the bonds in the form as shall
17 be deemed advisable by such officers in order to comply with the Rule.

18 SECTION 15. The provisions of this act are severable, and if any of its provisions are held
19 unconstitutional or invalid for any reason by any court of competent jurisdiction, the decision of
20 the court shall not affect or impair any of the remaining provisions.

21 SECTION 16. This act shall take effect upon passage without voter approval
22 notwithstanding Article 8, Section 7 of the Providence City Charter in conformity with the reserved
23 powers of the General Assembly pursuant to Article XIII, Section 5 of the Constitution of the State
24 of Rhode Island.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

AUTHORIZING THE CITY OF PROVIDENCE TO FINANCE A CONTRIBUTION
TOWARDS THE UNFUNDED PENSION LIABILITY OF THE EMPLOYEE RETIREMENT
SYSTEM OF THE CITY OF PROVIDENCE BY THE ISSUANCE OF BONDS

1 This act authorizes the city of Providence to finance a contribution towards the unfunded
2 pension liability of the employee retirement system of the city of Providence by the issuance of
3 \$750,000,000 bonds therefor and, subject to the conditions set forth in Section 2 of the act, such
4 authorization to issue bonds is increased to an amount not to exceed \$850,000,000.

5 The act is effective upon passage, in conformity with the reserved powers of the General
6 Assembly pursuant to Article XIII, Section 5 of the Constitution of the State of Rhode Island.

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